

FISCAL NOTE

SB 36 - HB 29 SECOND EXTRAORDINARY SESSION

November 9, 1999

SUMMARY OF BILL: Modifies existing franchise and excise tax laws to eliminate areas that result in double taxation. Clarifies that "gross receipts", "total gross receipts", "total receipts" and "receipts" all have the same meaning for franchise and excise tax purposes. Revises the computation for "net earnings" and "net loss" for excise tax purposes. Clarifies that exempt entities are to be taxed on income unrelated to the activities upon which the exemption is based. Specifies that a taxpayer doing business in Tennessee is subject to franchise and excise tax even though the taxpayer may have failed to obtain a charter or certificate of authority, or has had its charter or certificate of authority revoked or suspended. Clarifies that in order to claim an excise tax credit for the purchase of computers that do not fall within the definition of "industrial machinery" the taxpayer must qualify for the job tax credit. Lowers the franchise, excise tax payment that an entity is required to have paid prior to filing an extension request from 100% to 90% of the current year's liability. Imposes on S corporations an annual fee of \$50 per shareholder, with a minimum fee of \$300 and a maximum of \$3,000. Imposes a \$300 fee on subchapter S corporations that have a Tennessee charter or certificate of authority but were completely inactive in Tennessee and owned no property in Tennessee during its last fiscal year. Allows a credit against the franchise tax or the Secretary of State fees for the annual per member and per shareholder fee paid by a limited liability company or S corporation. The credit must be taken on the tax return filed for the tax year in which the fee is paid. Any unused credit would not be subject to refund or to carryover to a subsequent tax year. The effective date of the bill is July 1, 1999.

ESTIMATED FISCAL IMPACT:

Decrease State Revenues - \$3,900,000

Increase State Expenditures - \$53,000 One- Time

Estimate assumes:

- The fees assessed on active S-Corporations is estimated to increase state revenues approximately \$7,400,000; however, entities that are active and pay franchise tax would be able to use fees paid as a credit against franchise tax liability which is estimated to decrease state revenues approximately \$7,400,000.
- The fees assessed on inactive S-Corporations would increase state revenues approximately \$2,200,000. These corporations would not be eligible to receive a credit against fees paid.
- Other entities receiving a credit against the franchise tax for fees paid is estimated to decrease state revenues approximately \$6,100,000
- A one-time increase in state expenditures of \$53,000 for costs to notify taxpayers of changes in the tax law.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James A. Davenport". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

James A. Davenport, Executive Director